

6/25/15: NTOC mtg w/ Admin GMCCarthy

Administrator McCarthy's comments:

Budget issue: - asked for addtl \$30M in Gap funding:

- TMDL prioritization
- Trying to streamlining the process on TAS (Rule making) –
- Impaired waters listing (TMDL & application procedures) – to intervene w/ Tribes to establish their own priorities
- Climate adaptation
 - o With Tribal sensitivities: highlight Tribal cultural preservation
- Looking at GAP progress with enabling tribes re: long-term strategies (esp. solid waste) (will extend this for another year - (countah-pahts & pahts of the govt) – looking at working with other partners in the federal government to bring others into the game.. another year – but need to work with the white house counsel(council) .. treat as Equal Partners...
- Treaty rights: Regions being as aggressive in recognizing them – give them underlying tools to feel confident as the treaty rights as the law of the land (including this in resource decisions)
 - o White house council on Indian Affairs part of their purpose & foundation (treaty rights)
- Water quality to allow Tribe's water rights to be effective (availability & quality)..
- Larger opportunity under Clean Power Plan renewable opportunities (units?)
- Have Clean Water Rule – allow protection for smaller tributaries.. Regions have been phenomenal -asking for Tribal suppoaht. (are the army corp districts implementing this in the proper way?).. effective implementation..
- Looking at cabinets with Tribal Youth (unity?) – looking at the tribal college.. tribal college programs emphasizing science & environmental sciences.. look at real actions.)EPA – full pahtnah in this effaht.

BUDGET: NTOC presentation: highlighting (treaty rights efforts).. (looking at tribal chairmen opportunity to ..

Treaty rights

- GAP Guidance (after 30th anniv. on Indian Policy).. goes against what EPA has been doing – implementation memo, Executive Order & Indian self-determination acts.. (against??).. “why is EPA ‘dictating’ how the Tribes implement programs and spend \$’.. (look at 638 funding – although, PL93-638 is not the standard.. need to communicate differently..
 - o Extension on the guidance to implement
 - o Neither party will be satisfied
- Look at \$ for mitigation/adaptation.. need to do adapt, change etc. –

- Water issues: water protection (long term programs look at stagnant funding) – looking at targeted/secure funding for TAS programs.. (funding floor)
- Solid Waste: important .. (backhauling – industry term) – ‘hazardous waste disposal’... looking at disposal (USDA, IHS, BIA, EPA, .. ?)..
- Risk assessment (across the board) looking at the unique tribal exposure.. (rural America?).. across the agency at the beginning. – looking at this as part of an agency-wide directive (NTOC request)
- Thanking GM re: brining in media groups (etc. office of water), etc. – science available and now provides back-up/justifications for the budgets asked & assistance.
- State partnerships .. being available for Tribal access [change in agency policy & position] – to modify relationships with the State to discuss Tribes and tribal participation.
- Admin: much more ‘meaty’ in re: to raising the quality of the work submitted as part of the budget request.

Stan Meiburg: (Billy/Alex & Gerald – as part of the EPA budget process in May for FY2017).. as well as execute budget now..

- Affirmation to EPA as the staff can support the Tribal counterparts/partners.. looking at budgets at all levels.. GAP funding is a priority, asking for FY2017 for \$98M.. substantial increase from existing budget.
- Water budget (\$50M in general – looking at “down payments v. full payments” – looking at agencies across the board, support & leverage to help Tribes meet their needs, as well as the Agency to meet its needs/perform its purpose. – Do more together than they can do by themselves.
- House appropriations: mark up on \$718M less than current operating level – over \$1B less than what president asked for. – has a number of riders that are critical (climate, clean water rule, etc.).. \$10M line item for Alaska native villages for .. ?.. holds EPA at sequestration levels. Senate as well – presents dramatic challenges for the agency to do what it can do. – hoping to get final bill closer to the President’s bill..
- Start to look at fy2017..

Billy Maines: Discussion re: focus of the budget as apportioned to GAP:

- Emphasis on Indoor Air as part of the program, concerns about moving \$ from current air programs to indoor emphasis – look at running the programs the Tribes want to (choosing between the two? Looking at supplementing tribal programs with these dollars – but looking at current programs and current successes

Debra Lekanoff (R10) – asking “what can NTOC do to assist in providing justification for EPA to ask for and demonstrate budget increases.. to help NTOC protect their budget (look at UST as well).. consistent & streamlined.

Affirm the current process (providing data).. SMeiburg: continue to do what they did this (?) year - &, looking at multiple lens – both the national and local – adding resources & a solid case to demonstrate benefits of current funding benefits (tribal responsibility).. show payoffs to “investment”.. to continue to think in the long-term budget term .. additional structure. (needs, use, benefit, assessment & fact showing).

- Looking at specific analysis – how concretely is the need – what percentage is private sector, long-term investment, & enhancement to existing investment. ID that the flexibility will assist in long-term investment preservation.
- Solid waste – instead of ‘capacity indicators (instead of where we want program) v. outcome measures’ – indicators: how much solid waste – look at the economic component – calculates into dollars that can be extracted & reported back to congress; protects health safety, measurable results & technical assistance.
- Emory: GAP funding: confusing about the way things transpired – look at ‘84 policy to stress flexibility & how self-determination applies. [*Note: these are not self-determination dollars*] – told they can’t use it the same way. Change in expectation & outcome, without explanation(?).. can use it for management, but not actual performance (looking at potential revenue from the program to supplement the program).. Tribes know this best of how things will work within their community – moving to “tribal independence of true sovereignty” – but GAP strings is lopsided and may conflict with tribal cultural activities.. have funding capacity (remove solid waste) – GAP was incredible – OIG report 2008 – beyond ‘gap’ to find a pathway to walk together (Deb) – how do work toward flexibility. Looking at thoughtful opportunity to work together. (look at OMB requirements + tribal enviro director’s priorities). (GAP Guidance – requires deliverables – ensuring capacity – AND measurable (metrics))..

Jane Nashida: EPA ‘understands’ concerns – try to work with gap guidance flexibility, looking at solid waste measures (including long term sustainability) – looking at long terms needs (including extension) to develop policies effect, support & appropriately impact measures on the ground. Capacity is still a goal of GAP program.

Energy & Transportation sector: Opportunities & Challenges (Mathy Stanislaus (OSWER)) – going to announce – report on chemical plant safety. Report to the president (from June 2014) – strengthening community awareness, preparedness, data management, and emphasis.. where majority of emphasis comes through state & tribal preparedness officials [assumes states & tribes have that preparedness] – looking at chemical facilities (refineries, chem storage facilities) [unknown amount of Tribes in the business of any of these chem facilities] – is there a benefit of a subset of these committees. How can they meet the needs of these Nat’l response team framework (states, tribes & local governments to develop contingency plan).. looking at State Tribe & territorial planning options (& looking at chemical

plant operations).. (transportation routes are part of this responsibility) – not a part of emergency response plans. Who has this responsibility? Who are the most vulnerable.

Concerns about:

- evacuation
- shelter etc.
- response plan
- training (?)

Tools developed: computer model: allows state & tribal officials to identify impact zone of a chemical release, what schools & hospitals are in that zone – looking at evacuation. (that the people w/in the evac zone are not brought to the table) – EPA will provide training on this tool to assist with broad planning.

- Established regional working groups w/ OSHA & ... to establish process (data sharing, coordinating inspections, identifying information experts that Fed Gov can support).. how can they bring the Tribe into these specific issues.
- Crude by rail (significant increase since 2008) [Bakken] – how do they decrease effect of environmental ‘events’..
- Inter-agency group from white house – EPA has a role, DOT regulating train cars, BIA routes – looking at strategic plans (in addition to 50yrs) but immediate steps. Where can EPA & ?? take steps that aren’t budget questions. (?) – looking at regional and national response teams (strengthening engagements w/ Tribes.. use existing training & efforts (i.e. increase participation, facilitate calls, etc.)..
- DOT – flexibility of funding to sustain current efforts re: transportation emergency response.
- Original analysis shared (??? – do we have this outcome analysis??)..
- Homeland Security – how can we leverage existing grants to increase opportunities & emergency response capabilities in IC.
- Provide additional training to coordinators – do they have current and updated information – strengthen knowledge to ground work. Tribes engaged – looking at analysis of transporting over 1M gallons of crude – waterways, tribes , etc. – all at risk, how can EPA fill the gaps.. not fixating on #, but safety methods of transportation, etc. Looking at persons affected & (enviro) natural resources protection (v. oil/gas).. Looking at building on existing efforts – 49 states weighed in.. (outcome?).. – leverage current/past work to support current issues – plus to leverage current work to support future efforts as well.

- Alex (ECOS Dir?).. States & tribes – issues for regions to work out with Tribes & States (NTOC) – leverage resources.. ECOS..
- Looking at partnerships - (Tribal engagement on behalf of inter agency – open, honest relationship, etc.) to continue agency moving forward.
- Next group by rail discussion will give opportunity to address these large transportation volumes of crude – tackling challenges collaboratively. While EPA is leading coalition w/ Tribes – it's exclusively preparedness & planning (DOT: primary function for emergency planning).
 - o Tribal success stories – (spill response (or any response) in urban areas) – where non-refined chemicals in rural areas (esp. in AK)).. looking at extraordinary effort, but remember effect for generations.
- 20 of 40 (treaty tribes?) in nation.. –
 - o 'pathway' of non-refined fossil fuel (coal, non-refined Bakken shale, etc.) – (accountable to sources – all public records)..
 - o "live in a pollution based economy – and for treaty tribes – it's not a matter of if, but when"..
 - Puget Sound restoration – looking at restoring beyond what we are today – why bring something to an already devastated area (not pristine as it may appear) –
 - Looking at coal terminals (cherry point)..
 - Rail today, but also vessel
 - (between Washington & Canada) .. Salish sea – 124%increase in traffic – where will the treaty tribes fish if there's a spill. How will EPA protect/regulate; 7 generations long.. transboundary issues – looking at protecting these resources (rapid response EO) – moving permits quickly – how are treaty rights incorporated into this (collaboration & legacy)..
 - Vessel Routes – much more significant..
 - Potential areas that will occur – in conjunction with Tribes exercising treaty rights.
 - Cherry Point is being built on a burial ground.. EPA role?
- (winds blowing).. health issues in AK – Lummi less than 5 miles from Cherry Point proposed facility gateway..
- Cooperative zone – international & transboundary.. (coast guards for US or Canada) – haven't discussed traffic increase.. first nations will host this.. couldn't do it b/c of bureaucratic tables –
- Anchoring & Bunkering – could increase over 200%.. will retribution for any crab pots or other fishing equipment destroyed .. including fishing lines (half in ocean – half in boat) –

Additional player: tugboats – will increase in traffic & oil ..

- Treaty rights: ALL of salish sea.. crab, etc. – commercial fisheries – state, tribal & Canadian –

Alberta tar sands – Kinder Morgan pipeline – while trying to figure out where the non-refined fuels..

Going through some of the most dangerous parts of the seas – US Coast Guard looking to decrease policing.

Tribes – looking at sound science, research & legal review.. a) can an island in salish sea take one (1) oil spill.. (san juan islands) – 113 endangered species in these islands..

33% of these mammals & birds are already listed – can't take one more..

- ? what will increase in traffic how will it impact treaty rights? (legally through EPA – their response).. NEPA.. look at above-and-beyond.. is there MORE than de minimis impact which is the MINIMUM.
- 160 yr old treaty – rights exercised well beyond 150 yrs. International impact..
- Impact food sources, cultural impacts..
- ? of loss of cultural significance & history.
- “Treaties at risk” (administration presentation – EPA partner assisting with this).
- 2 refineries in Swinomish..
- Not safe, can't respond – will effect treaty rights.
- Bakken – 40% increase.. tribes prepared to give all evidence to US trustee (? Why don't they have this yet- IMPORTANT)..

NCAI – first roundtable on trans-boundary issues..

Bakken Shale Oil & coal transportation routes – Gerald – Blackfeet have 70miles East/West – through Blackfeet on its way to the coast (as well as Nat'l park – glacier) – how Tribes need to respond (look at MHA as well).. on the way to the coast – Tribes & tribal lands along the way & require EPA 'trust responsibility' level of attention. Preservation of current environment (even if it's already devastated).

- Tribal challenges to emergency response: (more questions perhaps than solutions) but AWARENESS – awareness of this issue & increased responsibility for trust action, etc.
- Michigan – contaminating major fishery.. (Wisconsin?).. R5 RTOC – looking at swine farm (CAFO) – right near bad river rez – close to a fish-creek actuary.. close to wild rice in the only one in the bay in lake superior – inland (MN & WI) – Enbridge – sandpiper pipeline, plan to transport from Bakken in Canada, to MN & Lake Superior – to ship to eastern refinery – crosses MN boarder, in water-ways.. very concerned about the pipeline crossing all these waterways – possible 3000 waterways (lakes & streams) w/ potential contamination.. fearful of pipeline breaks, b/c environment, treaty lakes – hunt, fish & gather – Ojibwe life rights – cultural resource that may be impacted.. damage the cultural resource & the reason why the Ojibwe.. 70% of the world's (?) wild rice is in MN.. need EPA assistance to protect those lands. Solicited opinions from tribal chairs.

- Looking at Ground water impacts & SDWA issues – looking at Army Corp coordination.. re: most thorough environmental review. Re: jurisdictional determination re: waters of the U.S. – look at highest level of environmental review be performed regarding pipeline review.
- Who will clean up the mess? [what level of tribal protection] – EPA? Local Gov't? Tribes? EPA (as trustee) – look at treaty rights & territories.
- Looking at regional aspect (Transportation) – (michelle Prosada R10) – regional representative for Dennis McClarren..
 - R10 examples: on emergency preparedness: Tribes are active participants in regional response teams.. challenge & important priority (tribes difficulty to get to meetings – regional or national TOC to assist w/ flexibility in funding – looking at specific geographic plans (? On Swinomish) – drills – spills of nat'l significance drill; training to the extent R10 can – multi-tribal training (Umatilla & ?) - & ECOS representative – looking at state emergency response commission can partner with Tribes – looking at Traffic to get this information (emergency orders & transportation re: Crude transit)... sharing info w/ rail carriers – on contingency planning (no TERC – tribal emergency response commission - ?Does R8 have this?).. there's a few things they're doing, but what can they do with regional engagement.
 - Sylvia Patterson (Seneca) – East.. transportation to NJ/NY refineries; Bakken oil crude, etc. (cuyuga, Oneida, Tuscarora, shinicock, Mineshony? etc.) – western NY: Cattaraugus – algheny territory – flooded by dam, loss of territory – have a very antiquated rail that goes through a city (see Seneca casino) – entire city is a brownfields .. 15 rail trains (40-50 bakken crude tankers) – 40miles – algheny territory (lake Ontario?) – Niagra falls near.. counted 20 Bakken trains.. in 8hrs (-30 min lunch).. if one train derails in any state territory – then there are plenty areas of possible contamination. Look at this possibility of collaborating with EPA, is the local CERT team ready? Is the county/State CERT team ready? .. “children: bomb trains” [Fear of.. v. impact].. **[cost of clean up v. cost of prevention...]**
 - EJ issue – trains are pulling up to “port” – chain link fence separates “bomb train” from playground, ice cream parlor, tribal housing site.
 - State doesn't do a good job in partnering, Can be a point where EPA will be effective.. looking at response trailer, etc. – but look at potential of loss of life concerns (partnering with other agencies etc.) – looking at Tribal consultation questions.
 - Strengthening rail cars, but not enough will be inevitable (again – “not if – but when”).
 - Look at profits effect at BP – enforcement actions against regulated bodies
 - ? of R10 spill. FEMA, state of WA – Yakima leader being the incident manager. Got the work done – b/c of things being in place – then the major concern: equipment access –

if Tribe had this equipment, instead of FEMA, etc. – then would have been able to save more animals & animal habitat..

- Equipment training
- Environment (water, air, animals (USFWS), corp, BIA, BLM, BOR, EPA, etc.) – collaborative funding.. (Coast Guard)..
- Tribes can access emergency response equipment?(Militarized equipment??)..
- (Klamath river treaty tribes (? 30 treaty tribes on that??))
 - Water, as a cultural resource.
 - Powerful representative for Tribes

Ceremony (for mother earth) – sundance.. water used in prayer from the springs – but it's being contaminated.. don't go to the historic tribal waters – b/c they have permits, in superfund sites – looking at violations/enforcement actions, etc. – sludge & sewer – need accountability, violations of laws – fracking, etc., speaking for animals, riparian areas, etc. – looking at permits - Transportation effects.. Looking at Coast Guard is part of the DOT/White House

- QUESTION: NHPA – permit on 106 question on 'ability to deny a permit'.. (Dewey Burdock).. de minimus impact..

Treaty Rights – importance of consideration (really look at legal interpretation of effect & breadth of policy)..

Real World – impact – speak common language .. understanding necessary.

- Insights into risk, the effect of considering health & human effect/impact v. permittees, etc.
- Tribes as environmental stewards.
- Looking at boundary testing.

*relying on others & their resources to protect Tribal resources **essence of trust responsibility, to assist the Tribes in preserving & maintaining resources for their current & historic use.** Part of “treaty rights” emphasis? So we say “capacity”.. and we say GAP assistance.

Gina McCarthy response: feel 'explain' – often times a garden hose to the wildfire – not enough.. can bring the parties required to fight the wildfire to the table. LEVERAGE THE RESOURCES – prioritize, (ETEP), and help identify the partners who can help – dragging those partners to the table.

- WONT BE DISHONEST – Dennis McClarren is busting his butt (who is that?).. Honesty – continue to give benefit of doubt (based on efforts to look at consideration from Tribes) – Tribes – REAL partnership effort. (flexibility? Partner? Comment? Consultation? Decision-making? Trust-responsibility to Tribes v. Trust responsibility to states (? – NONE) – to other individuals(? – NONE) – trust responsibility to corporations/permittees (?NONE!)..

Push each other.. keeping testing the limits (will have administrative support for creativity)..

AIR

TAMS Center – lending equipment for Tribes to perform functions (GSA?).. etc. – Janet McCabe for discussion on air quality ..

OW: (Ken Kaposis).. CWA rule will be published on Monday – see website – publication on the website – but will provide protective opportunities to resources where they have tribal interests.. 518 authorization, may be effected under new rule of how they implement, looking at standards, wetlands, etc. – 401 certification – permits will increase – rule provides more opportunity to provide additional protections. July 15 (2-3:30p EST) tribal webinar on the new Clean Water Rule (listen to post-rule concerns, implementation, etc.).. will have a lot of opportunity to remove barriers.

Set up situation to continue working with TRIBES, how do you do 303(d) of listing of impaired waters, and then also removal.

Sherry: looking at USGS – water quality training, equipment, assurance, etc. – research projects, etc – GIS training to look at Data.. (re: in MA v. Maine).. 300 miles away – discussion on tribal rights? Long-distance training for local training opportunities – how can they take advantage of this – work with USDA (natural resources conservation specialist) – they have \$, can travel, provide training on their own system.. webinar opportunities w/ other USGS people, USGA specialists & EPA accounting?

Look at national tribal resource conference... to learn about resources? To do MOUs... [could look at doing this on an agency level w tribal advisory component].. looking at tribes to be the resource to advise on collaborations. On resource options, etc. .. looking at industry as well, to partner or for history and resources. Legal requirements?.. Cutawba reached out..

Air: Jason walker.. regional training (fee waivers).. can ask. Tribes being very creative. NOT A VACCUUM.

TechAsst: mn: and liason to Chicago. .

Region 10 looks a model to bring together these agencies to maximize services and execute similar missions. i.e. inter-tribal state fed water plan, then R6: can extend scope of partnerships for other data acquisition..

Lee Juan, land returns back to tribes.. who's responsible to clean up those historic conveyances.. need to focus on exemptions.. folks collaborating on avoiding responsibility..

Same people who we're partnering with, are the same who are voicing opposition. Hard to trust the partnerships..

Looking at universities to provide training, those who are sending out persons for information from Tribe, Tribe can turn around for technical knowledge for assistance to Tribe. Military, industry, etc. – Look at flexibility for funding to provide that opportunity to Tribes..

Scott: TMDL: there will be a lot of tribes looking at tech assistance. Technical assistance in finding information on the TMDL's ..

“family – we're all in this together” – clearinghouse for environmental information office (?) to put together information for Tribes..

Web access – webinars.. look at network for information sharing – place to identify issues (listserve?)

Universities (R4) - + R8 – MOU's w/ tribal colleges, to address specific issues & concerns to get information and provide resources to communities ..

R6 initiative (emory?) – reports improving in quality – due to NTC asking for more specific information for developing a budget..

Circulated to the tribes in the Region – asked about the needs – what kind of programs would they like to have (circulate survey – NEED TO CREATE SURVEY) – write in budget needs for each program – then final tally, then get this same type information from all regions.

Found: a lot of tribes didn't know how to develop the budget to look at developing a program (developing 106, lead base paints, etc.) – [Region can provide that resource – tribal partnering (?)]

NTOC didn't see how difficult – but looking at R6 workbook that has budget examples to be a guide (budget matrix) for Tribes & tribal communities .. R8 has this.. to see what kind of effort/budget/resources, etc. to address these factors. [STRATEGIC PLANNING FOR TRIBES TO BE ABLE TO USE THIS MATRIX]

Look at grants applied for v. grants received (may not address need).. hence, strategic environmental plan.

Continued discussions for GAP guidance – extending transition. Concerned about solid waste portion..

RTOC mtg in ABQ, for R6..

Illustrate outcomes v. capacity.. (focus on the ends.. v. the 'means').. [internal question: Capacity building w/in '84 EPA tribal policy'.. that's not just outcomes..

Alex: law interns: Hualapai had legal interns to assist environmental ..

R8: we have templates for this matrix – Tribes – new tribe getting an air grant; can supply this information to the rest of the Regions. Other Regional Tribes – Look at inter-regional meetings – more than NTOC – inter-agency & inter-tribal meetings.. can move things faster. Look at using Tribes to be involved in planning or use.. FERC obligations.. awareness of 'technical group'.. need to address internal policy re: meetings – not just advisory to EPA, but assist EPA in doing their trustee job – unique (?).

Multi-agency tribal programs (pre-gap). Required multi-agency cooperation & considerations.

RTOC: but more – per state? Include the state? .. ideas. .. & IS TRIBAL LEADERSHIP INVOLVED??